

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MARY LAGUERUELA

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU-3063

Decision No. CU - 5988

Counsel for claimant:

Manuel Zaiac, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$111,643.00, was presented by MARY LAGUERUELA, and is based upon the asserted loss of real and personal property in Cuba. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Section 504 of the Act provides, as to ownership of claims, that

(a) A claim shall not be considered under section 503(a) of this title unless the property on which the claim was based was owned wholly or partially, directly or indirectly by a national of the United States on the date of the loss and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously thereafter until the date of filing with the Commission.

The Regulations of the Commission provide:

The claimant shall be the moving party and shall have the burden of proof on all issues involved in the determination of his claim. (FCSC Reg., 45 C.F.R. §531.6(d) (1969).)

Claimant described her losses as follows:

- | | |
|--|-----------------|
| (1) 50% of 22.5% interest in property rented to Editorial Omega, S.A., at Concepcion St. Cerro | \$ 67,489.68 |
| (2) 50% of 1/3 of dwelling house at DuPont development, Varadero Beach Matanzas | 7,500.00 |
| (3) 50% of rental property at 1505-190 St., Biltmore development Marianao, completely furnished, purchased in 1960 | 28,653.32 |
| (4) 50% interest in tract of land in Biltmore Havana | <u>8,000.00</u> |
| | \$111,643.00 |

Claimant has asserted that she and her husband, Benito Lagueruela, acquired some of the property as community property, by transfer from members of the Lagueruela family, residents of Cuba, or by direct purchase. Benito Lagueruela and other members of the Lagueruela family are not claimants in this matter.

At the time of filing claim, claimant submitted only a recapitulation of the properties and a copy of an excerpt from the Official Gazette in Cuba, with English translation, concerning Cuban Law 989, published on December 6, 1961.

By Commission letter of June 20, 1967, claimant was advised, in detail through counsel, as to the type of evidence proper for submission to establish her claim under the Act. On July 20, 1967, counsel was invited to submit the suggested evidence; and on September 8, 1967, a similar letter was sent to claimant.

Claimant submitted three affidavits of former residents of Cuba who state they had personal knowledge of the property of the Lagueruela family in Cuba or who represented persons or firms which had business relations with a printing firm said to have been owned by members of the Lagueruela family. The affiants referred to family arrangements concerning proposed transfers of ownership of the property of the parents of claimant's husband to members of his family. However, probative evidence concerning the ownership, loss and value of property stated to have been owned by claimant herein was not submitted. Accordingly the Commission made additional suggestions to claimant, through counsel, in letters of October 23 and 27, 1967.

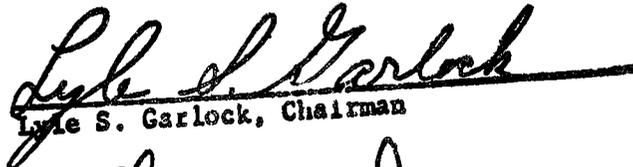
The claimant submitted two additional affidavits of former residents of Cuba who stated that in April, 1960, the claimant purchased certain land at 1405-190 Street, between 15 and 17 Avenues, Reparto Biltmore, Havana, Cuba. In several letters from November 2, 1967 through October 30, 1968 the Commission made additional suggestions to claimant's counsel.

Additionally, the Commission has attempted to obtain evidence in behalf of the claimant but information received thus far has been negative in nature concerning ownership of the property located in Reparto Biltmore, Havana, Cuba.

The Commission appreciates the difficulties encountered by the claimants in establishing their claims against the Government of Cuba. However, the Commission must be guided by the evidence of record pertaining to the ownership, loss and value of the property included in each claim. The Commission is constrained to find that claimant herein has not met the burden of proof in that she has failed to establish the ownership and value of rights and interests in property which was nationalized, expropriated or otherwise taken by the Government of Cuba. Accordingly, this claim is hereby denied for the reasons stated. The Commission deems it unnecessary to make determinations with respect to other elements of this claim.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

DEC 2 1970


Lyle S. Garlock, Chairman


Theodore Jaffe, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g) as amended, 32 Fed. Reg. 412-13 (1967).)